

## § 299.6

(b) *Applicable programs.* This subpart is applicable to the following programs:

(1) Part A of title I (Improving Basic Programs Operated by Local Educational Agencies).

(2) Title II (Eisenhower Professional Development Program) (other than section 2103 and part C of this title).

(3) Subpart 2 of part A of title III (State and Local Programs for School Technology Resources).

(4) Part A of title IV (Safe and Drug-Free Schools and Communities) (other than section 4114).

(c) *Meaning of "preceding fiscal year".* For purposes of determining if the requirement of paragraph (a) of this section is met, the "preceding fiscal year" means the Federal fiscal year, or the 12-month fiscal period most commonly used in a State for official reporting purposes, prior to the beginning of the Federal fiscal year in which funds are available for obligation by the Department.

*Example:* For fiscal year 1995 funds that are first made available on July 1, 1995, if a State is using the Federal fiscal year, the "preceding fiscal year" is Federal fiscal year 1994 (which began on October 1, 1993 and ended September 30, 1994) and the "second preceding fiscal year" is Federal fiscal year 1993 (which began on October 1, 1992). If a State is using a fiscal year that begins on July 1, 1995, the "preceding fiscal year" is the 12-month period ending on June 30, 1994, and the "second preceding fiscal year" is the period ending on June 30, 1993.

(d) *Expenditures.* (1) In determining an LEA's compliance with paragraph (a) of this section, the SEA shall consider only the LEA's expenditures from State and local funds for free public education. These include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.

(2) The SEA may not consider the following expenditures in determining an LEA's compliance with the requirements in paragraph (a) of this section:

(i) Any expenditures for community services, capital outlay, debt service or supplemental expenses made as a result of a Presidentially declared disaster.

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(ii) Any expenditures made from funds provided by the Federal Government.

(Authority: 20 U.S.C. 8891)

### Subpart E—Services to Private School Students and Teachers

#### § 299.6 What are the responsibilities of a recipient of funds for providing services to children and teachers in private schools?

(a) *General.* An agency or consortium of agencies receiving funds under an applicable program listed in paragraph (b) of this section, after timely and meaningful consultation with appropriate private school officials (in accordance with the statute), shall provide special educational services or other benefits under this subpart on an equitable basis to eligible children who are enrolled in private elementary and secondary schools, and to their teachers and other educational personnel.

(b) *Applicable programs.* This subpart is applicable to the following programs:

(1) Part C of title I (Migrant Education).

(2) Title II (Professional Development) (other than section 2103 and part C of this title).

(3) Title III (Technology for Education) (other than part B of this title) (Star Schools).

(4) Part A of title IV (Safe and Drug-Free Schools and Communities) (other than section 4114).

(5) Title VI (Innovative Education Program Strategies).

(6) Title VII (Bilingual Education).

(c) *Provisions not applicable.* Sections 75.650 and 76.650 through 76.662 of title 34 of the Code of Federal Regulations (participation of students enrolled in private schools) do not apply to programs listed in paragraph (b) of this section.

(Authority: 20 U.S.C. 8893)

#### § 299.7 What are the factors for determining equitable participation of children and teachers in private schools?

(a) *Equal expenditures.* (1) Expenditures of funds made by an agency or consortium of agencies under a program listed in § 299.6 (b) for services for